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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,488	06/09/2000	Dean F. Jerding	A-6600	2510

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SCIENTIFIC-ATLANTA, INC.  
INTELLECTUAL PROPERTY DEPARTMENT  
5030 SUGARLOAF PARKWAY  
LAWRENCEVILLE, GA 30044

EXAMINER
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BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/590,488

Applicant(s)

JERDING ET AL.

Examiner

Scott Beliveau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 38-50,56-60 and 70-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-50,56-60 and 70-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 October 2005 has been entered.

### ***Priority***

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e). The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/138,756, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In particular, the earlier filing does not

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appear to provide support for claims 38 and 56 taken as a whole and in particular the amended claim language of “responsive to determining that the at least one current rental exists and a previously active BOD session has been torn down for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation; [and] responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title”. Accordingly, the application is being examined based upon its filing date or 09 June 2000.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 38-50, 56-60, and 70-73 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's arguments such that the Goode et al. reference fails to particularly teach or suggest establishing a VOD session for a VOD presentation based on a current rental and establishing another VOD session that is active for the VOD presentation despite a previously active VOD session has been torn down even when the rental still exists, the examiner respectfully disagrees. It is the examiner interpretation that the combined references including the Goode et al. reference enables the user to establish multiple rentals that are considered current rentals that they are still valid rentals (ex. the expiration period

has not expired) and are considered active/open in that they are either actively being used or watched or are temporarily not in use (ex. temporary stop or pause) such that the system is continuing to allocate bandwidth the subscriber. The system is further operable to “tear down” or end a previously active session should the session no longer be actively utilized so as to employ the bandwidth for other resources. These rentals, assuming that they are still current, may be later restarted by the user whereupon the system reestablishes a new active session in connection with the reallocation of bandwidth or resources to requesting terminal so as to restart the particularly requested program. Subsequently, the user can view and interact with the current rental screen.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. While the examiner concurs that support for the particular limitation is found as noted in applicant’s arguments, the drawings still must show every feature of the invention specified in the claims unless the particular features are considered conventional or not necessary for the understanding of the invention. Therefore, the particular process flow including the newly added limitation of “responsive to determining that the at least one current rental exists and a previously active VOD session has been torn down for the first VOD presentation, determining whether the first VOD presentation has been reactivated; [and] responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD

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presentation” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claims 38-41, 56, 57, and 70-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat No. 6,166,730) in view of Dunn et al. (US Pat No. 5,721,829), and in further view of Swix (US Pat No. 6,609,253).

In consideration of claims 38 and 56, the Goode et al. reference discloses a method implemented by a “digital home communication terminal (DHCT)” [118] comprising “memory” [518/520] implicitly storing “program code” so as to control the operation of the terminal via an interactive interface such as the OnSet™ system (Col 13, Line 60 – Col 14, Line 10). The method comprises “determining if at least one current rental exists” and “responsive to determining that at least one current rental exists” (ex. which rentals have not expired) “determining whether an active video-on-demand (VOD) session for a first presentation exists” associated with the particular active usage or playback of the “first VOD presentation” by another user within the household. Subsequently, “responsive to determining that the active VOD session [for the first VOD presentation]” exists (ex. another user in the household is viewing the presentation) , the user is “provided [with] a selectable option to view the first VOD presentation” in connection with an option to purchase another

copy of the first VOD presentation. Furthermore, “responsive to determining that the at least one current rental exists and a previously active VOD session has been torn down for the first VOD presentation” (ex. no one in the household is currently viewing the presentation or the presentation has been stopped for an extended period of time)(Col 12, Lines 34-37), the system “determines whether the first presentation has been reactivated” via a subsequent request to restart the presentation and “sets up another active VOD session for the first VOD presentation” in connection with playing back original presentation (Figure 11; Col 17, Line 55 – Col 20, Line 8). The system “responsive to establishing another active VOD session for the first VOD presentation” is subsequently operable to “provide a VOD current rental screen having a VOD title of the first VOD presentation” (Col 15, Lines 42 – Col 16, Line 26; Col 17, Line 55 – Col 18, Line 33).

The Goode et al. reference is silent such that the aforementioned “current rental screen” further comprises “information on the length of time remaining on the VOD titles, and information on the rental time duration remaining for viewing the VOD title”. In a related art pertaining to interactive video distribution systems, the Swix et al. reference discloses an advantageous technique for managing bandwidth in conjunction with a VOD system which includes tearing down sessions associated with extended inactivity (Col 8, Lines 16-36) and more specifically includes providing any number of graphical displays comprising “information on the length of time remaining on [a] VOD title” and “information on the rental time duration remaining for viewing the VOD title” (Swix et al.: Col 14, Lines 21-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Goode et al. such that the aforementioned “current



rental screen” further comprises “information on the length of time remaining on the VOD title” and “information on the rental time duration remaining for viewing the VOD title” for the purpose of advantageously providing a means so as to limit a subscriber’s ability to consume bandwidth capacity yet provides a satisfactory viewing experience which includes informing the user with respect to the status of established limits (Swix et al.: Col 5, Line 59 – Col 6, Line 30).

The Goode et al. reference is also silent as to what occurs “responsive to determining that at least one current rental does not exist”. The Dunn et al. reference discloses a VOD system that “determines if at least one current rental exists” and “responsive to determining that at least one currently rental does not exist” it “provides a list of selectable VOD titles” (Col 7, Lines 20-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Dunn et al. interface navigation so as to “provide a list of selectable VOD titles responsive to determining that at least one current rental does not exist” for the purpose of providing the user with a convenient means to facilitate the viewer’s browsing and ordering of video content if there are no current rentals and other inherent advantages associated therewith.

Claims 39 and 57 are rejected wherein the system “receives a user input configured to select the selectable option to view the first VOD presentation” whereupon the system “provides the first VOD presentation to a user” (Goode et al.: Figure 7).

Claims 40 and 41 are rejected wherein the apparatus is operable to “receive a first user input configured to select a VOD title form the list of selectable VOD titles”, to “provide a selectable option for renting a second VOD presentation corresponding to the VOD title

selected from the list of selectable titles”, and to “receive a second user input configured to select the selectable option for renting the second VOD presentation” (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33).

In consideration of claims 70 and 71, the Goode et al. reference discloses teaches that upstream communication signals derived from the “digital home communication terminal (DHCT)” [118] control the particular playback operations associated with the SCM for controlling the distribution of the media presentation (Col 13, Lines 54-64). The reference also teaches that the terminals may need to “retry . . . at various time intervals” based upon a random backoff interval should the particular distribution of these commands fail (Col 9, Lines 20-67). As aforementioned, the system “responsive to determining that the first VOD presentation was reactivated” acts to “set up another active VOD session of the first VOD presentation” with the SCM [220]. Accordingly, the claim meets the limitation of “wherein if the another session setup fails, retrying the session setup to activate a VOD session for the first VOD presentation at various time intervals” such should the “digital home communication terminal (DHCT)” [118] fail in attempting to setup an active session with the SCM (ex. transmission failure of command due to message collisions), the “digital home communication terminal (DHCT)” [118] will subsequently retry at various time intervals.

In consideration of claims 71 and 73, as aforementioned, the Goode et al. reference “determines whether multiple current rentals exist” (Figure 11) and is capable of “setting up a session” in association with the playback of previously viewed current rentals on any order designated by the user (Col 18, Lines 21-33). Accordingly, the reference anticipates the particular intended use such that the system “sets up a session a most recently viewed current

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rental” in response to the user designation of restarting viewed programs in the order of viewing.

8. Claims 42-50 and 58-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Goode et al. (US Pat No. 6,166,730), in view of Dunn et al. (US Pat No. 5,721,829), in view of Swix (US Pat No. 6,609,253), and in further view of Casement et al. (US Pat No. 5,969,748).

In consideration of claim 42-46, the combined teachings do not particularly disclose nor preclude the usage of determining whether or not selected presentations are blocked via both parental control and purchase access codes. The Casement et al. provides a method for renting a VOD presentation wherein “responsive to receiving the second user input, determining whether the second VOD presentation is blocked”, the apparatus “prompts a user to provide a third user input identifying a first access code for unblocking the presentation”, and “receives the third user input identifying the first access code” [100/102]. Subsequently to “responsive to receiving the third user input identifying the first access code” [102], the user is “prompted . . . to provide a fourth user input identifying a second access code” [106]. Accordingly, presuming that both the “first” and “second access codes” are correct, the apparatus “provides the user with the VOD presentation responsive to receiving the third user input” [110] (Casement et al.: Figure 3; Col 6, Lines 30-47). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined teachings with that taught by Casement et al. for the purpose of advantageously providing a means to control access to television programs

associated with both regular and on-demand programming (Casement et al.: Col 1, Lines 5-8, 26-63).

In consideration of claim 47, while Casement et al. discloses the particular usage of “key-strokes” in conjunction with the user input device (Col 3, Lines 51-65), the reference does not explicitly disclose that the entry of the “first and second user inputs” are provided via a plurality of key-strokes”. Rather, the reference simply discloses that the passwords are entered, but does not particularly disclose how they are entered. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the aforementioned user input device so as to enter the multi-character passwords using a “plurality of key-strokes” for the purpose of providing a means or technique by which to facilitate the entry of the “first and second user inputs”.

Claim 48 is rejected wherein the “first and second access codes each includes a plurality of characters” (Casement et al.: Col 7, Lines 38-40).

Claim 49 is rejected wherein the “first user input enables the VOD presentation to be unblocked” (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 50 is rejected wherein the “second user input enables the VOD presentation enables the VOD presentation to be rented” (Casement et al.: Figure 5; Col 7, Lines 21-31).

Claim 58 is rejected wherein the “program code is further configured to provide a second VOD presentation identified in the list of selectable VOD titles responsive to receiving a first user input selecting the second VOD presentation” (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33), a “second user input identifying a first access

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code, and a third user input identifying a second access code” (Casement et al.: Figure 3; Col 6, Lines 30-47).

Claim 59 is rejected wherein the “first user input enables the VOD presentation to be unblocked” (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 60 is rejected wherein the “second user input enables the VOD presentation enables the VOD presentation to be rented” (Casement et al.: Figure 5; Col 7, Lines 21-31).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Logston et al. (US Pat No. 5,481,542) reference discloses an interactive information services control system and further outlines the signaling process associated with the establishment of video sessions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SEB  
December 15, 2005

Scott Beliveau  
Examiner  
Art Unit 2614